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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Roberto HERNANDEZ-Garcia,** Defendant	Magistrate Docket No. '07 MJ 2643 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **November 9, 2007** within the Southern District of California, defendant, **Roberto HERNANDEZ-Garcia**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **13th** DAY OF **NOVEMBER, 2007**

Nita L. Stormes
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Roberto HERNANDEZ-Garcia

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On November 09, 2007, Border Patrol Agent K. Headlee was assigned to line watch duties in an area known as Marron Valley. This area is approximately seven miles west of the Tecate, California Port of Entry and approximately four miles north of the International Border between the United States and Mexico. Groups of undocumented aliens frequently use this area to further their illegal entry into the United States. At approximately 8:00 p.m. Agent Headlee responded to the activation of a seismic intrusion device located south of his location. Upon arriving in the area of the device, Agent Headlee observed a group of two individuals attempting to conceal themselves in some dense underbrush next to the foot trail. Agent Headlee identified himself to the individuals as a Border Patrol Agent in the English and Spanish languages and questioned each of them separately to determine their citizenship and immigration status.

Both subjects, including one later identified as the defendant HERNANDEZ-Garcia, Roberto, stated that they were citizens and nationals of Mexico not in possession of immigration documents that would allow them to legally enter and or remain within the United States. The defendant admitted that he had illegally crossed the border near Tecate, California through the mountains. Both subjects including the defendant were arrested and transported to the Brownfield Border Patrol Station for initial processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **October 02, 2007** through **Nogales, Arizona.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

Executed on November 10, 2007 at 9:00 am.

Raul Castorena
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **November 9, 2007,** in violation of Title **8**, United States Code, Section **1326**.

Nita L. Stormes
United States Magistrate Judge

11-10-07 @ 10:40am
Date/Time